IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

OP.No. 30661 of 2000(A)

PETITIONER:

DUGAR FINANCE LTD.,
123, MARSHALLS ROAD, CHENNAI,
A LTD. COMPANY REGISTERED UNDER
THE INDIAN COMPANIES ACT WITH ITS
REGISTERED OFFICE AT CHENNAI AND BRANCH
AT KOCHI, REP. BY BRANCH MANAGER
SRI.CHACKO PODIKUNJU.

BY ADV. SRI.M.RAMESH CHANDER
SRI.P.RAGHUNATH

RESPONDENTS:
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1. BABU JOSEPH, S/O.OUSEPH,
RESIDING AT PULIYANAL HOUSE,
THODUPUZHA.

2. REGIONAL TRANSPORT OFFICER,
PATHANAMTHITTA.

3. STATE OF KERALA, REP. BY
CHIEF SECRETARY, TRIVANDRUM.

R1 BY ADV. SRI.SHAIJAN C.GEORGE
SRI.P.P.THAJUDEEN
SRI.P.RAJEEV
R2&3 BY G.P. SMT.R.BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NOS.51961/2000 & 15616/2001 IN O.P. NO.30661/2000

DISMISSED:

22.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: PHOTOCOPY OF LEASE AGREEMENT DT.5.1.1995.

P2: PHOTOCOPY OF RELEVANT PAGES OF THE REGISTRATION CERTIFICATE.

P3: TRUE COPY OF MEMO DT.19.5.2000 ISSUED BY R2.

P4: TRUE COPY OF REPLY DT.13.6.2000.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 30661 OF 2000

Dated this the 22nd day of March, 2007

JUDGMENT

The petitioner is the financier of a stage carriage purchased by the first respondent with the fund borrowed from the petitioner. The dispute pertains to liability for motor vehicle tax after possession of the vehicle was taken over by the financier on default by first respondent. This Court permitted registration of the vehicle in the name of the financier after financier furnishes Bank guarantee for the tax arrears. Section 3(3) of the Motor Vehicle Taxation Act provides that the registered owner of, or any person having possession or control over, motor vehicle shall, for the purpose of this Act, be deemed to use or keep such vehicle for use in the State, except during any period for which no tax is payable on such motor vehicle under sub-section (1) of Section 5. In the circumstances, arrears of motor vehicle tax will be recovered from the first respondent until the date of take over by the petitioner, and thereafter recovery could be made from the petitioner as petitioner is in possession and control of the vehicle from that date

onwards. Therefore respondents 2 and 3 are directed to encash the security furnished by the petitioner and adjust the arrears of tax due for the period from the date of take over of possession by the petitioner till date and recover arrears upto the date of take over by the petitioner from the first respondent.

O.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge